



Western Australia.

ANNO QUINQUAGESIMO NONO

VICTORIÆ REGINÆ.

PRIVATE ACT.

AN ACT to adapt and assimilate the existing Trusts of Wesleyan Methodist Church Properties to the present Constitution of such Church in Western Australia, and for other collateral purposes.

[Assented to, 12th October, 1895.]

WHEREAS the society in the Colony of Western Australia, denominated Wesleyan Methodists, has always formed an integral portion of the Australasian Wesleyan Methodist Church as constituted from time to time by the English Conference:

Preamble.

Original constitution of Wesleyan Methodist Church in Australasia.

AND WHEREAS such Australasian Wesleyan Methodist Church has now a separate and independent constitution conferred, approved of, and delegated by the English Conference, the laws, powers, and regulations of which constitution are set forth in the schedule to "The Wesleyan Methodists Model Deed of South Australia, 1887," hereinafter referred to, and such Australasian Wesleyan Methodist Church has constituted four Annual Conferences each of which has, amongst other things, the power of appointing its own Ministers, and which are respectively called "The New South

New constitution.

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Wales and Queensland Conference," "The Victoria and Tasmania Conference," "The South Australia Conference," and "The New Zealand Conference," and are comprised in and governed by a General Conference assembling once in every three years, or at such other intervals, more or less, as it may deem expedient:

AND WHEREAS the South Australia Conference includes the Colony of Western Australia:

Resolution of
General Conference
for model deed.

AND WHEREAS the General Conference, in November, One thousand eight hundred and eighty-four, resolved, amongst other things, that it is desirable that the properties connected with the several annual conferences should as far as practicable be held upon the same trusts, and that for this purpose a model deed should be prepared which should be made applicable to the circumstances of each Colony; and the several annual conferences were authorised and empowered to procure Acts of the Legislature of the several colonies within their jurisdiction for the settlement of Church properties therein on the trusts of such model deed, and such resolution was afterwards sanctioned and approved by the English Conference:

Preparation of model
deed by General
Conference.

AND WHEREAS, in pursuance of such resolution, a form of model deed was prepared under the authority of the General Conference and approved of by the English Conference:

Adaptation of same
by South Australia
Conference to
circumstances of
province.

AND WHEREAS the South Australia Conference has caused to be prepared a model deed in such form, but altered so as to make the same applicable to the circumstances of the said province, and containing trusts and provisions adapted and assimilated to the present constitution of the Wesleyan Methodist Church in the said province, which said model deed bears date the ninth day of September, in the year of our Lord One thousand eight hundred and eighty-seven, and is made or expressed to be made between Samuel Philpot, Henry Goss, Henry Broad, Edmund Gilding, Edward Jury, Charles Pitt, and Henry Hersey, of the first part, and the Reverend James Young Simpson of the second part, and the said Samuel Philpot, Henry Goss, Henry Broad, Edmund Gilding, Edward Jury, Charles Pitt, and Henry Hersey of the third part, and which model deed has been duly executed and attested, and is registered in the General Registry Office for the province of South Australia, No. 43, book 387, and enrolled in the said General Registry Office, No. 16, book 54, and is herein referred to as "The Wesleyan Methodist Model Deed of South Australia, 1887:"

Trusts on which
lands are held in
W.A.

AND WHEREAS all Wesleyan Methodist Church lands in Western Australia, by virtue of the Ordinance of the Legislative Council passed in the thirty-first year of the reign of Her present Majesty, No. 1, are held upon such and the same trusts, and to, and for such and the same ends, intents, and purposes, and with, under, and subject to such and the same powers, provisoes, declar-

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ations, and agreements as are expressed, contained, and declared or referred to in and by a certain Indenture of Release bearing date on or about the third day of July, in the year of our Lord one thousand eight hundred and thirty-two, and made or expressed to be made between John Sutcliffe, Benjamin Garside, Francis Farnell, John Swallow, Thomas Firth, Robert Wilson, Samuel Naylor, John Fearby Sutcliffe, Thomas Fox Sutcliffe, Charles Swallow, John Swallow the Younger, Samuel Morley, Joseph Garside, accountant; William Farnell, and Joseph Garside, wood turner; therein respectively described of the first part, the Reverend George Marsden, therein described of the second part, and James Brown, therein also described of the third part, and enrolled in Her Majesty's High Court of Chancery on the twenty-fifth day of July, One thousand eight hundred and thirty-two, being a deed made of the settlement of a piece or parcel of land, ground, and Chapel or place of religious worship, with the appurtenances situate at Skircoat, in the parish of Halifax and county of York, for the use of the people called Methodists in the connection established by the late Reverend John Wesley :

AND WHEREAS it is desirable that all Wesleyan Methodist Church lands in Western Australia should be held upon the trusts and with the powers, authorities, and discretions, and subject to the provisions of "The Wesleyan Methodist Model Deed of South Australia, 1887," but subject and without prejudice to any reservation, mortgage, charge, encumbrance, lien, or lease affecting the same respectively, and subject and without prejudice to any resulting trust, or any trust in favour of the donor, or any person or corporation other than the Wesleyan Methodist Church, and to create facilities for proof of certain matters, documents, and things, and to provide for other collateral matters, and for the purposes aforesaid to obtain Legislative authority :

Proposed new Trusts.

BE it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows :—

1. THIS Act may for all purposes be cited as "The Western Australian Wesleyan Methodists Act, 1895."

Short title.

2. IN the interpretation of this Act the following terms shall, unless the context otherwise requires, have the several meanings set against them respectively :—

Interpretation.

" Wesleyan Methodists."—The people called Methodists in the connection established by the late Reverend John Wesley, A.M., who are sometimes called Wesleyans, and sometimes called Wesleyan Methodists.

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- “Wesleyan Methodist Church.”—The Church or community for the time being of the Wesleyan Methodists in Western Australia.
- “English Conference.”—The Yearly Conference of the Wesleyan Methodists in England, as explained and defined in the Deed Poll of the twenty-eighth day of February, One thousand seven hundred and eighty-four, executed by the said John Wesley and enrolled in the High Court of Chancery in England, a copy of which is set forth in the Schedule to “The Wesleyan Methodist Model Deed of South Australia, 1887.”
- “South Australia Conference.”—The Annual Conference of the Australasian Wesleyan Methodist Church for the time being embracing within its jurisdiction the Province of South Australia and the Colony of Western Australia, such Annual Conference being duly constituted by the General Conference of the said Australasian Wesleyan Methodist Church, and forming an integral part thereof.
- “Church Lands.”—All lands, hereditaments, and premises of whatever tenure, including chattels real, situate in Western Australia, with all rights, easements, and appurtenances whatever relating thereto, which now are held in trust for or on behalf of the Wesleyan Methodist Church in Western Australia.
- “Custodian of Deeds” means such person as may from time to time be appointed in that capacity by the South Australia Conference, or the Conference having jurisdiction in the Colony of Western Australia for the time being.
- “Legal Proceedings.”—All proceedings whatever, whether preliminary, initiatory, interlocutory, or final, in any court of justice.

Church lands to be held upon trusts of S.A. Model Deed of 1887.

3. ALL Church lands which, at the time of the coming into operation of this Act, are held or vested in trustees upon any trusts for the Wesleyan Methodist Church, shall, from and after the coming into operation of this Act, be held by the trustees thereof upon such and the like trusts, and with such and the like powers, authorities, and discretions, and subject to such and the like terms, provisions, and conditions as are expressed, contained, declared, or referred to in and by “The Wesleyan Methodist Model Deed of South Australia, 1887,” but subject, and without prejudice, to any reservation, mortgage, charge, encumbrance, lien, or lease affecting the same respectively, and subject, and without prejudice, to any resulting trust or any trust of any such Church lands in favour of

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the donor or any person or corporation other than the Wesleyan Methodist Church.

4. THE Registrar of Deeds is hereby empowered and directed to enrol in his office a copy of "The Wesleyan Methodist Model Deed of South Australia, 1887," hereinbefore referred to, when such copy is presented or tendered to him for that purpose by or on behalf of the President for the time being of the South Australia Conference, and a printed copy of the said deed, certified by the Custodian of Deeds, shall also be lodged with the Registrar of Titles in his office.

Copy of S. A. Model Deed of 1887 to be enrolled in Registry of Deeds and copy lodged in Land Titles Office.

5. A WRITTEN or printed copy purporting to be a copy of the minutes of the English conference or of the General Conference, or of any Annual Conference of the Australasian Wesleyan Methodist Church purporting on the face of it to be signed by the President for the time being of such Conference, shall be taken and received in all legal and other proceedings before any court of justice, or before any person having by law or consent of parties authority to hear, receive, or examine evidence, as *prima facie* evidence of all resolutions and orders touching or concerning all elections or expulsions, consents, disbursements, delegations, appointments, and of all acts and proceedings whatsoever of such English Conference, General Conference, or Annual Conference respectively entered in such minutes without any further proof, and a printed copy purporting to be a printed copy of "The Wesleyan Methodist Model Deed of South Australia, 1887," and of the Schedules thereto attached, purporting on the face of it to be signed by the President for the time being of the South Australia Conference, shall also in like manner and on like occasions be received and taken as *prima facie* evidence of such deed and of the constitution of the said General Conference and of the four said Annual Conferences, and of the said Deed Poll of the 28th day of February, 1784, executed by the said John Wesley, without the production of the originals thereof respectively.

Printed minutes of the several Conferences to be *prima facie* evidence.

Printed copy of "The Wesleyan Methodist Model Deed of South Australia, 1887," and of Schedules thereto, *prima facie* evidence.

6. NOTWITHSTANDING anything herein or in the said Deed Poll of John Wesley or the said "Wesleyan Methodist Model Deed of South Australia, 1887," contained, the said South Australia Conference may from time to time,—

Extension of powers of South Australian Conference.

(a.) Appoint any minister, being a member of the Conference, or any preacher on trial, to the same chapel or chapels or premises year by year successively for five years, or for such greater number of years as may from time to time be authorised by the said General Conference or other conference for the time being exercising supreme jurisdiction in the Colony of Western Australia: Provided that any such yearly appointment for more

To extend the term of appointment of Ministers.

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than three successive years shall be made only in accordance with such conditions as such General Conference or other conference shall have already fixed or may hereafter determine ;

To alter or modify
Model Deed and

- (b.) With the approval of the said General Conference or other conference as aforesaid, make any other alteration in or modification of the said "Wesleyan Methodist Model Deed of South Australia, 1887," or of any schedule thereto, and make, alter, and repeal such rules and regulations for the appointment of its ministers and preachers on trial, and the election of its officers, as it may think fit.

make rules and
regulations.

Western Australian
district to be bound.

The Western Australian District shall be bound by the exercise of any of the aforesaid powers by the South Australia Conference. Copies of every alteration or modification of the said Model Deed shall be enrolled and lodged in like manner, as hereinbefore provided, with respect to the said Model Deed itself.

Enrolment, &c., of
alterations of Model
Deed.

Form of appointment
of new trustee.

7. ANY appointment of new trustees of church lands, if signed by the persons entitled to exercise the power of appointment and by the new trustees, and attested in manner prescribed by "The Transfer of Land Act, 1893," for the attestation of instruments, and made in the form or to the effect contained in the Schedule hereto, or as near thereto as circumstances will permit, shall be sufficient and valid and effectual to all intents and purposes, so far as regards the form and mode of execution and attestation thereof.

Appointment of new
trustees may be
registered.

8. ON any appointment of new trustees of church lands, such appointment may be registered in the Registry of Deeds, or in the office of the Registrar of Titles at Perth.

Registration to vest
estates in new
trustees.

9. ON the registration of any appointment of new trustees of church lands, such trustees shall be deemed to be duly appointed, and the trust estates held upon the trusts to which such new trustees are appointed shall, without any conveyance, transfer, or assignment, vest in the new trustees, either solely or jointly with the old trustees, as the case may require, for all the estate and interest of the old trustees therein, subject to the trusts affecting such trust estates then subsisting, and capable of taking effect: Provided that—

- (1.) In order to affect any land not held under the provisions of "The Transfer of Land Act, 1893," a memorial of the appointment shall be registered in the Registry of Deeds.
- (2.) In order to affect any land held under the provisions of "The Transfer of Land Act, 1893," the appointment shall be registered in the office of the Registrar of Titles, and the Registrar shall thereupon enter in the Register

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Book the names of such new trustees, either solely or jointly with the old trustees, as the case may require, as the joint proprietors of such land.

10. UPON the entry in the Register Book provided for by subsection (2) of the preceding section, the persons in whom the trust estates shall vest pursuant to the said section shall be the registered proprietors thereof for all the purposes of "The Transfer of Land Act, 1893."

Registered proprietors.

11. NO appointment of new trustees of church lands shall be received for registration unless the contents thereof shall be verified by affidavit or declaration accompanying such appointment, in the form contained in the Schedule hereto, and made by the persons entitled to exercise and exercising the power by which the new trustees are appointed, or, if such persons number more than three, by any three of such persons. Such affidavit or declaration shall for all purposes be *prima facie* evidence of the truth of the statements contained therein.

Verification of memorandum.

12. WHERE any sale, mortgage, exchange, or lease of any church lands not under the provisions of "The Transfer of Land Act, 1893," is made, the conveyance, mortgage, exchange, or lease thereof, and all other deeds and documents necessary for effectuating such sale, mortgage, exchange, or lease, if executed by a majority of the trustees for the time being of the said church lands, shall be deemed to pass the legal estate therein as fully and effectually as if all the trustees in whom the legal estate was vested had joined in, executed, or made such conveyance, mortgage, exchange, or lease, or other document. And where any sale, mortgage, exchange, or lease of any church lands under the provisions of "The Transfer of Land Act, 1893," is made, the transfer, mortgage, exchange, or lease thereof, and all other necessary documents, shall be as effectual, if signed by a majority of the trustees for the time being of such church lands, as if such transfer, mortgage, exchange, or lease, or other document had been duly signed by all the trustees or registered proprietors thereof.

Conveyance, &c., executed by majority of Trustees sufficient.

Provided always, that the trustees making any such transfer, conveyance, mortgage, exchange, lease, or other document, shall consist of not less than three in number.

Provided also that any trustee absent from the Colony may join in, make, and execute any such conveyance, transfer, mortgage, exchange, lease, or other document as aforesaid by his attorney duly appointed by him in that behalf.

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Repeal.

27 Vic. No. 2.

31 Vic. No. 1.

13. (1.) THE Ordinances of the Legislative Council, passed respectively in the twenty-seventh year of the reign of Her Present Majesty, numbered two, and in the thirty-first year of the same reign, and numbered one, are hereby respectively repealed.

(2.) The repeal of such first mentioned Ordinance shall not affect—

(a.) Anything done or agreed to be done, or any liability incurred thereunder ; or

(b.) Any proceedings begun under the said Ordinance. Any such proceedings may be continued under the said Ordinance as though this Act had not been passed.

In the name and on behalf of the Queen I hereby assent to this Act.

ALEX. C. ONSLOW, Administrator.

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Schedule referred to.

Appointment of New Trustees.

PURSUANT to "The Western Australian Wesleyan Methodists Act, 1895," I (name and residence of Superintendent), of _____, the Superintendent of the Circuit, being the person entitled to nominate, and we (names of continuing trustees and description) being persons entitled to exercise and exercising the power of appointing new Trustees of the Trust hereinafter referred to, do hereby respectively nominate and appoint (names and description of new trustees) to be new Trustees jointly with (names and description of continuing trustees) of the Trust constituted under (show particulars of instrument creating the trust). Section 7.

And we the said (name of new trustees) do hereby accept the said Trusteeship. The Trust estate comprises (description of land and reference to title).

The power of appointing new Trustees after nomination by the Superintendent of the Circuit is vested in (names of old, continuing, or acting trustees) by virtue of the provision in that behalf contained in "The Wesleyan Methodist Model Deed of South Australia, 1887," and of which provision the following is a copy:—

"And it is hereby declared to be the true intent and meaning of these presents, and of the parties thereto, that the full number of the Trustees of the said Trust premises shall not be less than three nor more than thirty, and that when and so often as any one or more of the said Trustees, or of their successors in the said Trust, shall die, be incapacitated from acting, refuse to act, or resign office as Trustee by and with the consent of a majority of his co-trustees, or withdraw from, or cease to be an adherent of the said Wesleyan Methodist Church, or shall remove to such a distance as shall, in the opinion of his or their co-trustees, expressed by a majority of his or their co-trustees, and entered in their minute-book, render it inexpedient for him or them to remain in the said Trust, the place of the Trustee or Trustees so dying, being incapacitated, refusing to act, resigning, withdrawing from, or ceasing to be an adherent of the said Church, or removing as aforesaid, shall thereupon become vacant, subject, however, to the provisoes next hereinafter set out, and may be filled with a successor or successors, being a member or members, an adherent or adherents of the said Church, to be nominated by the superintendent preacher having charge for the time being of the Circuit in which the said Trust premises shall be situate, and thereupon appointed by the surviving or remaining Trustee, or by a majority of the surviving or remaining Trustees of the said Trust, if he or they shall think proper to appoint the person or persons so nominated, and in case of an equal division of the votes of the Trustees present at any meeting of the Trustees held for the purpose of such appointment, the said superintendent shall have a casting vote in such appointment: Provided always, that the Trustees shall not consent to the resignation of more than one Trustee by any one vote. Provided also, that notwithstanding the withdrawal by a Trustee from being a member or adherent of the said Church, his liabilities as a Trustee shall not cease unless his place in the Trust shall be declared vacant by a two-thirds vote of the Trustees present at a duly summoned meeting, which declaration it shall be in their power to make on their being convinced that he has withdrawn as aforesaid. And if at any time it shall be deemed advisable to increase the number of Trustees to a number greater than that appointed hereby not exceeding thirty, then the person or persons whom it is desired to appoint as such new Trustee or Trustees shall be nominated and appointed as is hereinbefore provided for the filling of vacancies."

The power of nominating and appointing new Trustees of the said Trust has been lawfully exercised by the persons entitled to exercise the same, by the appointment of the new Trustees mentioned in the next paragraph.

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The persons in whom the Trust estates will become vested, on registration hereof, are as follows:—

Firstly: Old continuing Trustees (*names and description*).

Secondly: New Trustees (*names and description*).

Dated this day of , One thousand eight hundred and ninety

Witness:

We (*names and description of old trustees, or if more than three, then of three of them*) do severally solemnly and sincerely declare (or make oath, and say) as follows:—

That is to say:

1. The statements contained in the foregoing appointment are true in every particular.
2. We are the persons entitled to exercise and exercising the power by which the new Trustees are appointed.

Sworn (or declared, &c.).